

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Grubbs, et al.
Serial No.: 09/302,707
Filed: April 29, 1999
For: ACCELERATION CONVEYOR
Attorney's Docket No. 3863

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name; that

I believe I am an original, first and joint inventor of the invention entitled "ACCELERATION CONVEYOR" described and claimed in the specification of U.S. Patent Application Serial No. 09/302,707 filed April 29, 1999.

I have reviewed and understand the contents of the specification, including the claims, in the above-referenced application, as amended by any amendment specifically referred to in the Declaration.

I acknowledge my duty pursuant to 37 C.F.R. §1.56 to disclose information of which I am aware which is material to the patentability of this application.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent

or inventor's certificate having a filing date before that of the application on which priority is claimed:

None.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I hereby appoint the following attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Group Art Unit: 3651
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DECLARATION OF GARRY R. KENNY

1. I am one of the inventors in the above referenced application and I am the President of Magnetic Separation Systems, Inc., the Assignee of the present application.

2. I understand that this declaration is being submitted as part of Applicant's Information Disclosure Statement for the purpose of disclosing to the Patent and Trademark Office any possibly relevant activities which occurred more than one year prior to the filing of the present application. These activities are being disclosed only in the interest of complete candor with the Patent and Trademark Office. Applicant does not believe and does not admit that any of the activities in this affidavit constitute prior art of any kind against the present application.

3. The development of the present invention has been part of a joint development effort between Magnetic Separation Systems, Inc. and Weyerhaeuser Company.

4. As shown in Exhibit A attached hereto, on October 30, 1996, MSS and Weyerhaeuser signed a TECHNOLOGY AND EQUIPMENT DEVELOPMENT AGREEMENT in which MSS contracted to provide engineering services "toward the design, development, and fabrication of an automated waste paper system designed to specifications herein defined, including sensing and sorting systems and in-feed/out-feed assemblies which are an integral part of the sensing and sorting systems ("AUTO-SORT")." Although that agreement was entered into with the hope that at some point in the future the invention would be sufficiently developed and would be successful enough that commercial equipment might be built and sold, no such equipment was sold or offered for sale under the terms of this agreement. It was strictly a development agreement.

5. Exhibit B attached hereto is the FINAL REPORT PAPER-SORT PROJECT, which is the report for the contract of Exhibit A. As described in that report, a prototype was built as a part of the development work. That prototype was not sold to Weyerhaeuser and remained the property of MSS. As further shown in the conclusions and recommendations from the report, there was still a substantial amount of development work to be performed before a commercial system was feasible.

6. Exhibit C attached hereto is a letter proposal dated September 3, 1997, from MSS to Weyerhaeuser proposing additional funding for further development on the sensor portion of the paper sorting system.

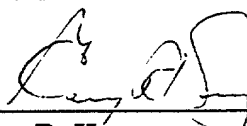
7. Exhibit D is Magnetic Separation Systems, Inc. proposal no. 97929 to Weyerhaeuser Company dated September 29, 1997. This proposal sets out five different options for further development of the technology. Although several of the options propose work that would ultimately lead to the design and development of a commercial product, the design was still in the very preliminary experimental stages. All of these proposals were made with the understanding that a substantial part of the proposed contract price was to fund the additional engineering development work which was necessary to complete a suitable design, before construction of actual equipment could occur.

8. As shown on Exhibit E attached hereto, on October 22, 1997, Weyerhaeuser accepted option #1 from the September 29 proposal which was simply to pursue further engineering, development and testing work on the sensor for the paper sort system.

9. It is noted that all pricing information contained in the original documents has been deleted in the Exhibits. That information is confidential.

10. I hereby declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and

that such willful false statements may jeopardize the validity of the application
or any patent issued thereon.



Garry R. Kenny

8-5-99
Date